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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,043	10/14/2004	Geir Monsen Vavik	CU-3831 RJS	3141
26530	7590	05/10/2006	EXAMINER	
LADAS & PARRY LLP 224 SOUTH MICHIGAN AVENUE SUITE 1600 CHICAGO, IL 60604			GREGORY, BERNARR E	
			ART UNIT	PAPER NUMBER
			3662	

DATE MAILED: 05/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/501,043

Applicant(s)

VAVIK, GEIR MONSEN

Examiner

Bernarr E. Gregory

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-58 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-58 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-58 are rejected under 35 U.S.C. 102(b) as being anticipated by Vavik (WO 01/67625 A1).

Claims 1-50 of the instant application are identical to claims 1-50 of Vavik (WO 01/67625 A1), with only slight deviation between corresponding claims between the instant application and Vavik (WO 01/67625 A1). Since the disclosure of Vavik (WO 01/67625 A1) supports its claims 1-50, and since the two sets of claims are identical, then the disclosure of Vavik (WO 01/67625 A1) must anticipate the subject matter of claim 1-58 of the instant application. It is noted that claims 51-58 of the instant application do not go beyond the subject matter disclosed in Vavik (WO 01/67625 A1), since the disclosure in Vavik (WO 01/67625 A1) and the instant application must be substantially identical in order to support two identical sets of claims.

3. Claims 1-58 are objected to in that they lack the necessary status identifiers as set forth in 37 CFR 1.121(c). Correction is hereby **required**.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claims 1-58 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Throughout claims 1-58, each and every use of the disjunctive “or” is indefinite in context in that they do not connect equivalent elements.

Throughout claims 1-58, each and every use of “can” or of “may” makes the claim in question indefinite in that “can” and “may” express potential without expressing the verbal action clearly and definitely.

In claim 6, the uses of “large” and of “very large” are indefinite and unclear in that there is no point of reference so that the reader may readily ascertain the numerical threshold at which amplification facts become “large” or become “very large.”

On line 3 of claim 8, the use of the verb “sees” in connection with an “oscillator” is unclear in context.

In claim 12, “the first mentioned modulator” lacks clear antecedent basis.

In claim 12, the recitation of “the information” is unclear in that it refers to the word “information” in claim 1 that is in a phrase that expresses the mere possibility of the superimposition of information.

On line 3 of claim 15, the use of “preferably” makes the claim language indefinite in that the named diode is not claimed clearly and definitely.

On line 3 of claim 16, the use of “possibly” makes the claim indefinite.

In claim 21, the term “customer specified” is indefinite and unclear in context.

Claim 21 is indefinite and unclear in that the claim recites no structure or interrelation of structure.

Dependent claim 32 is indefinite and unclear in that it does not clearly fall into one of the accepted class of claims (i.e., apparatus, method, or computer program product) and in that it is unclear how it could modify claim 1, from which it depends. The same problem occurs with claim 50.

On line 7 of claim 33, the use of the word "possible" makes the claim language indefinite.

In claim 41, it is unclear what is meant by the word "loose" as it modifies the noun "coupling" on line 2 of the claim.

On line 3 of claim 41, the use of the word "possibly" makes the claim indefinite.

In claim 43, it is unclear what is meant by the word "loose" as it modifies the noun "coupling" on line 4 of the claim.

On line 5 of claim 43, the use of the word "potentially" makes the claim indefinite.

On line 5 of claim 44, the parenthetical matter makes the claim indefinite and unclear in that it cannot be readily ascertained if or how the parenthetical matter modifies the remainder of the claim.

At the end of claim 45, the phrase "based on at least one type of spread spectrum technology" is indefinite and unclear."

At the end of claim 46, the phrase "and other cable modem protocols" is indefinite and unclear in context.

On line 2 of claim 50, the phrase "any type of positioning principle" is indefinite and unclear in context.

On line 3 of claim 50, "any geometric place" is indefinite and unclear in context.

On line 3 of claim 50, it is unclear in context what is meant by the phrase "establish any geometric place in the positioning scenario."

On line 3 of claim 50, "the positioning scenario" lacks antecedent basis.

Regarding claim 1, the abbreviated Latin phrase "e.g." renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Regarding claim 15, the phrase "like a Schottky diode" renders the claim indefinite because it is unclear whether the limitation(s) following the word "like" are part of the claimed invention. See MPEP § 2173.05(d).

Regarding claim 26, the phrase "like a transistor ..." renders the claim indefinite because it is unclear whether the limitation(s) following the word "like" are part of the claimed invention. See MPEP § 2173.05(d).

Regarding claim 33, the phrase "for instance" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Regarding claim 52, the phrase "for instance" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Regarding claim 49, the phrase "as cable modems" renders the claim indefinite because it is unclear whether the limitation(s) following the word "as" are part of the claimed invention. See MPEP § 2173.05(d).

Dependent claims 2-32 and 34-58 are unclear in that they depend from unclear independent claims 1 and 33.

6. Claim 20 is objected to under 37 CFR 1.75(c) in that multiple dependent claims may refer to other claims in the alternative only. Please note the use of the conjunctive "and" in the phrase "claim 9 and 10" on line 1 of claim 20.
7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

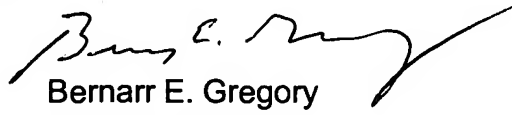
The examiner-cited prior art that has not been applied above is of general interest for showing the general state of the related prior art. Please note that Vavik (US 6,946,989 B2) is the United States counterpart of Vavik (WO 01/67625 A1).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bernarr E. Gregory whose telephone number is (571) 272-6972. The examiner can normally be reached on weekdays from 7:30 AM to 4:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas H. Tarcza, can be reached on (571) 272-6979. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Bernarr E. Gregory
Primary Examiner
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